

October 7, 2009

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CLIENT/MATTER NUMBER
093868 0101

VIA E-MAIL

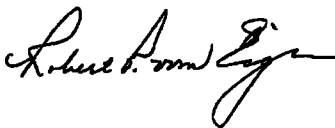
The Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

Re: Finance Docket No. 35133, *Milwaukee Industrial Trade
Center, LLC, d.b.a. Milwaukee Terminal Railway - Acquisition
and Operation Exemption - Private Trackage at Milwaukee,
WI*

Dear Secretary Quinlan:

Please enter into the subject docket the enclosed letter, including enclosures listed therein, which we believe to be self-explanatory, and which has been executed by counsel for The Redevelopment Authority of the City of Milwaukee ("RACM") and counsel for Milwaukee Industrial Trade Center ("MITC"). In addition, we are filing copies of letters filed in this docket on March 17, 2009 by me and by Mr. McFarland concerning the status of this proceeding.

Sincerely yours,



Robert P. vom Eigen

cc: Daniel R. Elliott, III, Chairman (w/encl.)
Charles D. Nottingham, Vice Chairman (w/encl.)
Francis P. Mulvey, Board Member (w/encl.)
Rachel D. Campbell, Director, Office of Proceedings (w/encl.)
Thomas McFarland, Esq. (w/encl.)

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GRANT F. LANGLEY
City Attorney

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JARELY M. RUIZ
ROBIN A. PEDERSON
DANIELLE M. BERGNER
Assistant City Attorneys

October 1, 2009

Honorable Charles F. Kahn, Jr.
Circuit Court Judge
Milwaukee County Courthouse
901 North 9th Street, Room 415
Milwaukee, WI 53233

Honorable Anne K. Quinlan
Acting Secretary
Service Transportation Board
395 E Street, S.W.
Washington D.C. 20423

Re: Milwaukee County Circuit Court Case No. 2008-CV-001772 (Judge Kahn)
and STB Finance Docket No. 35133

Dear Judge Kahn and Secretary Quinlan:

Milwaukee Industrial Trade Center, LLC ("MITC") and the Redevelopment Authority of the City of Milwaukee ("RACM") have entered into a Purchase and Sale Agreement regarding RACM's purchase from MITC of the real estate at issue before your respective bodies. Enclosed is page 12 of that fully-signed Agreement, which contains ¶23. As ¶23 indicates, MITC and RACM hope to amicably resolve the litigation before your bodies, and per ¶23, MITC and RACM hereby jointly ask the Milwaukee County Circuit Court and the Surface Transportation Board ("STB") to withhold the issuance of any further decision in Case 2008-CV-001772 or Finance Docket No. 35133 until after the anticipated real estate closing between RACM and MITC scheduled for on or before December 15, 2009, or until notification from either RACM or MITC that the Purchase and Sale Agreement between them has been terminated.

OFFICE OF THE CITY ATTORNEY

Milwaukee City Hall Suite 800 • 200 East Wells Street • Milwaukee, Wisconsin 53202-3551 • Telephone: 414.286.2601 • TDD: 414.286.2025 • Fax: 414.286.8550

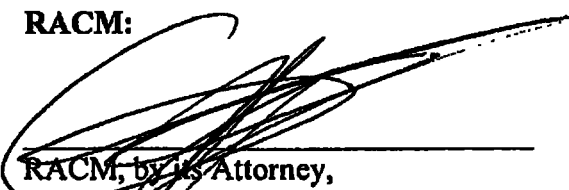
Honorable Anne K. Quinlan
Honorable Charles F. Kahn, Jr.
October 1, 2009
Page 2

For your convenience, we also enclose a copy of a November 21, 2008 letter that was sent to the STB and also a copy of the "Stand-Still Stipulation and Order" that was signed by Judge Kahn on November 12, 2008.

Thank you very much.

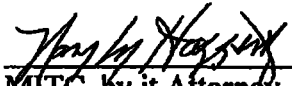
Sincerely

RACM:



RACM, by its Attorney,
Gregg C. Hagopian

MITC: By its Attorneys
MICHAEL BEST & FRIEDRICH, LLP



MITC, by its Attorney,
Nancy Leary Haggerty

GCH/ml:149993
Enclosures

c: Thomas McFarland
Robert vom Eigen
Gerald Blomberg
Rocky Marcoux
Benji Timm
Thomas O. Gartner

1050-2008-489

P.12 OF PURCHASE & SALE AGREEMENT

23)

Litigation, Settlement and Release. This Agreement reflects not only a purchase and sale agreement between MITC and RACM, but also a mutual settlement agreement and release among MITC, RACM and City.

If RACM closes on the transaction and acquires the MITC Parcel, MITC hereby agrees to dismiss with prejudice, and release, all current, possible, and/or threatened claims and litigation against RACM and/or City, relating directly or indirectly to any of the following: the MITC Parcel; MITC's Wis. Stat. Sec. 893.80 Claim dated February 11, 2008; Milwaukee County Circuit Court Case No. 2008-CV-001772 (Judge Kahn) and any possible appeal therefrom or related thereto; and any other claim, cause of action, liability or assertion, or damage claim that MITC has, might have, or could assert, against RACM or City as a result of or pertaining, in any way to the MITC Parcel or any part thereof, RACM's or City's interest in acquiring the MITC Parcel or any part thereof, RACM's desire to enter and test the MITC Parcel, occupancy permits or the Redevelopment Plan for or affecting the MITC Parcel, and/or rail or railroad status or STB jurisdiction affecting the MITC Parcel or any part thereof. This shall not waive enforcement of this Agreement or its exhibits.

If RACM closes on the transaction and acquires the MITC Parcel, occupancy and possession, RACM and City, in turn, agree to the release, hold harmless, and indemnity provisions in ¶ 10 above.

RACM, City and MITC all agree to cooperate and pursue, together and diligently, a release of rail or exemption status, and a release of STB jurisdiction over, the MITC Parcel and any rail or track thereat. RACM, City and MITC shall join in a joint motion to STB regarding same, the parties intending that RACM be able to own the MITC Parcel free from STB regulation and control, and intending that the litigation before the STB, Finance Docket No. 35133 be terminated amicably, and without costs to any party. At Closing, MITC shall convey to RACM, per the Bill of Sale, all of MITC's railroad rights in and to the MITC Parcel.

Upon execution of this Agreement, RACM and MITC shall join in a letter to Judge Kahn and to the STB, informing them of this Agreement, and requesting that they withhold issuing any further decision until either Closing or a notification from either party that this Agreement has been terminated.

- 24) **Midwest Concrete Crushing.** RACM and MITC acknowledge that all concrete-crushing operations at the MITC Parcel will be terminated on or before the Final Walkthrough Date. MITC shall cause Midwest, and any other persons or entities conducting crushing operations on the MITC Parcel, including but not limited to MML, to terminate all such operations by the Final Walkthrough Date, and to remove from the MITC Parcel by the Final Walkthrough Date, the Heaps defined herein.
- 25) **Cranes.** MITC may, prior to the Final Walkthrough Date, and at its expense, remove from the MITC Parcel and retain any right, title and interest in and to any of the cranes identified on **EXHIBIT F.** **EXHIBIT F** shall not list any crane in Buildings 1A, 35, 36 or 65. MITC

STB STAY- STAND STILL



FOLEY & LARDNER LLP

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CLIENT/MATTER NUMBER
093868-0101

November 21, 2008

The Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

Subject: Finance Docket No. 35133, *Milwaukee Industrial Trade Center, LLC*,
d.b.a. Milwaukee Terminal Railway – Acquisition and Operation
Exemption – Private Trackage at Milwaukee, WI

Dear Secretary Quinlan:

The Redevelopment Authority of the City of Milwaukee ("RACM") filed on September 18, 2008 a Petition to Revoke the Notice Exemption obtained by the Milwaukee Industrial Trade Center ("MITC"), to which MITC responded. RACM subsequently petitioned the Board to accept a reply to MITC's opposition, and MITC has filed a reply in opposition to that petition.

This letter is to notify the Board that the parties are engaged in negotiations that may result in the settlement of their dispute. Pending completion of those discussions, the parties have agreed to suspend proceedings in the Wisconsin state court and at the Board.

After consulting with counsel for MITC in these proceedings, I am authorized to represent that both RACM and MITC request that the Board suspend its consideration of all pending petitions before the Board until such time as the parties complete or terminate their discussions. We will notify the Board of any developments as they occur.

Sincerely,

A handwritten signature in cursive script, reading 'Robert P. vom Eigen'.

Robert P. vom Eigen
Counsel for RACM

cc: Thomas McFarland, Esq.
David M. Konschnik, Director, Office of Proceedings

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

MILWAUKEE INDUSTRIAL TRADE CENTER, LLC
4777 West Lincoln Avenue
West Milwaukee, Wisconsin, 53219

Petitioner,

Case No. 2008-CV-001772 ✓

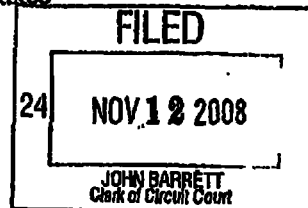
v.

CITY OF MILWAUKEE,
Attn: City Clerk, Room 205
200 East Wells Street
Milwaukee, Wisconsin 53202

And

REDEVELOPMENT AUTHORITY of the City of Milwaukee
Attn: Rocky Marcoux, Commissioner
Department of City Development
809 North Broadway
Milwaukee, WI 53202

Respondents.



STAND-STILL STIPULATION & ORDER

1. This Stipulation is jointly submitted by Petitioner ("MITC") and Respondents ("City" and "RACM").
2. Without waiving any rights, MITC, City, and RACM are now exploring amicable resolution and settlement.
3. The Court rendered an oral decision on October 9, 2008 in this case, and Respondents prepared and submitted to MITC a follow-up written order that Respondents wanted to provide to the Court. In the Court's oral decision, the Court allowed a temporary stay until November 7, 2008.

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DEC 13 2008

4. Since the parties are now engaged in settlement talks, the parties now ask for a "stand-still" and further stay until either a Termination Notice is sent, as specified hereunder, or until a final settlement is reached.

5. Petitioner and Respondents intend that, so long as each believes the settlement negotiations are taking place in good faith and positively progressing on both sides, the parties should be allowed time. Petitioner and Respondents agree, however, that if any of the parties believes that settlement negotiations are not positively progressing, or if any of the parties believes that it does not appear likely that a mutually-acceptable settlement will be reached, any party may unilaterally provide written notice of such (the "Termination Notice") to the Court and to the other parties, in which case, the "stand-still" and stay evidenced hereby shall be deemed ended on the date of that written Termination Notice.

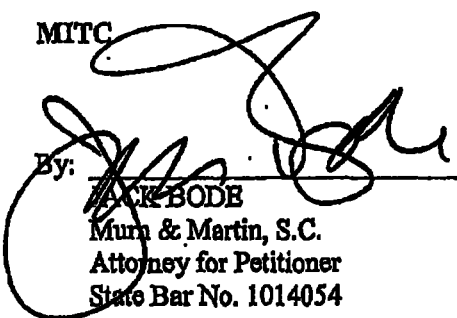
6. The parties agree that this document may be executed in counterparts and that facsimile signatures shall be accepted as originals.

AGREED by the parties.

Dated this 7 day of November, 2008.

MITC

By:

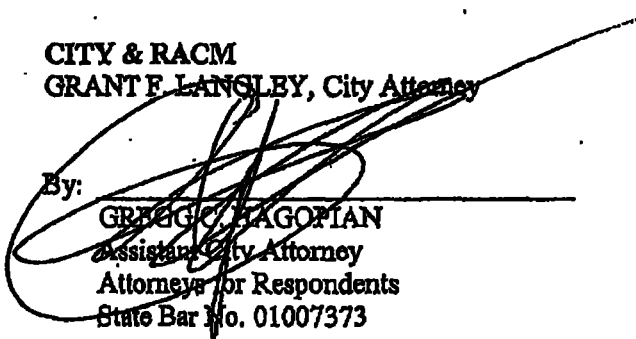

JACK BODE
Munn & Martin, S.C.
Attorney for Petitioner
State Bar No. 1014054

N20 W22961 Watertown Rd
Waukesha, WI 53186-1308
(262) 524-8500 - Telephone
(262) 524-9200 - Facsimile

CITY & RACM

GRANT F. LANSLEY, City Attorney

By:


GREGG C. HAGOPIAN
Assistant City Attorney
Attorneys for Respondents
State Bar No. 01007373

800 City Hall
200 East Wells Street
Milwaukee, WI 53202
(414) 286-2601 - Telephone
(414) 286-8550 - Facsimile

ORDER

The Court hereby acknowledges and accepts the above stipulation and orders compliance with the same. So ordered.

Dated: Nov. 12, 2008.

A handwritten signature in black ink, appearing to read 'Charles F. Kahn, Jr.', written over a horizontal line.

HONORABLE CHARLES F. KAHN, JR.
Circuit Court Judge, Branch 24

1089-2008-451:139366

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

Milwaukee Industrial Trade Center, LLC,

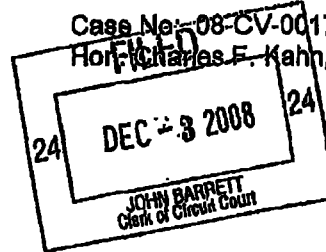
Petitioner,

v.

City of Milwaukee, and
Redevelopment Authority of the City of Milwaukee,

Respondents.

Case No: 08-CV-001772
Hon. Charles F. Kahn, Jr.



STIPULATION AND ORDER FOR SUBSTITUTION OF COUNSEL

The undersigned hereby stipulate that the firm of Michael Best & Friedrich, LLP be substituted for Murn & Martin, S.C. as counsel of record for the plaintiff in this matter.

MURN & MARTIN, S.C.

Dated this 19th day of November, 2008.

By: 

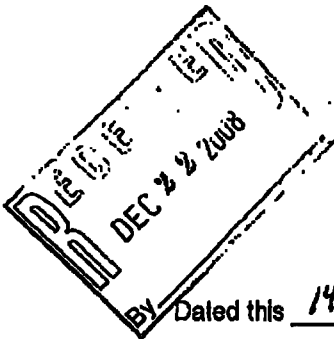
John T. Bode, SBN: 1014054
N20 W22961 Watertown Road
Waukesha, WI 53186

MICHAEL BEST & FRIEDRICH LLP

Dated this 18th day of November, 2008.

By: 

Alan H. Marcovitz, SBN: 1007942
Charles P. Graupner, SBN: 1017877
100 East Wisconsin Avenue, Suite 3000
Milwaukee, WI 53202



MILWAUKEE INDUSTRIAL TRADE CENTER, LLC

Dated this 14th day of November, 2008.

By: 

Gerald A. Blomberg, Jr.


ORDER

Upon the foregoing Stipulation,

IT IS ORDERED that the firm of Michael Best & Friedrich, LLP be substituted for Murn & Martin, S.C. as counsel for Plaintiff, Milwaukee Industrial Trade Center, LLC, in this action.

Dated this 3rd day of December, 2008.

BY THE COURT


Honorable Charles F. Kahn, Jr.
Circuit Court Judge

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

MILWAUKEE INDUSTRIAL TRADE CENTER, LLC
4777 West Lincoln Avenue
West Milwaukee, Wisconsin, 53219

Petitioner,

Case No. 2008-CV-001772

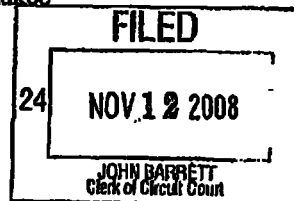
v.

CITY OF MILWAUKEE,
Attn: City Clerk, Room 205
200 East Wells Street
Milwaukee, Wisconsin 53202

And

REDEVELOPMENT AUTHORITY of the City of Milwaukee
Attn: Rocky Marcoux, Commissioner
Department of City Development
809 North Broadway
Milwaukee, WI 53202

Respondents.



STAND-STILL STIPULATION & ORDER

1. This Stipulation is jointly submitted by Petitioner ("MITC") and Respondents ("City" and "RACM").
2. Without waiving any rights, MITC, City, and RACM are now exploring amicable resolution and settlement.
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DEC 13 2008

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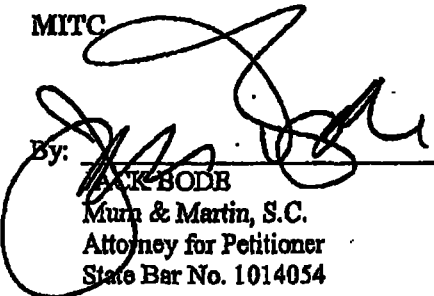
6. The parties agree that this document may be executed in counterparts and that facsimile signatures shall be accepted as originals.

AGREED by the parties.

Dated this 7 day of November, 2008.

MITC

By:

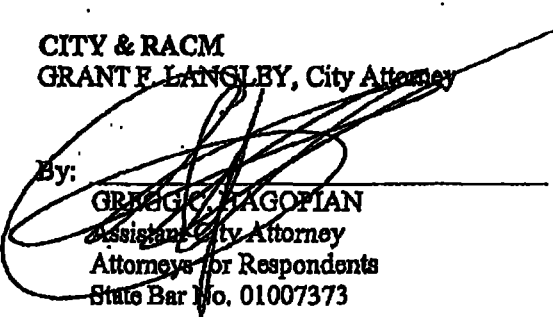

MARK BODE
Munn & Martin, S.C.
Attorney for Petitioner
State Bar No. 1014054

N20 W22961 Watertown Rd
Waukesha, WI 53186-1308
(262) 524-8500 - Telephone
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CITY & RACM

GRANT E. LANGLEY, City Attorney

By:

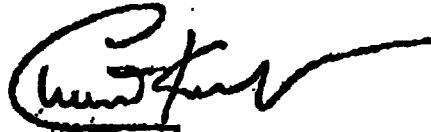

GREGOR LAGOPIAN
Assistant City Attorney
Attorneys for Respondents
State Bar No. 01007373

800 City Hall
200 East Wells Street
Milwaukee, WI 53202
(414) 286-2601 - Telephone
(414) 286-8550 - Facsimile

ORDER

The Court hereby acknowledges and accepts the above stipulation and orders compliance with the same. So ordered.

Dated: Nov. 12, 2008.

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HONORABLE CHARLES F. KAHN, JR.
Circuit Court Judge, Branch 24

1089-2008-451:139366

March 17, 2009

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CLIENT/MATTER NUMBER
093868 0101

VIA E-MAIL

The Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

Re: Finance Docket No. 35133, *Milwaukee Industrial Trade Center, LLC, d.b.a. Milwaukee Terminal Railway - Acquisition and Operation Exemption - Private Trackage at Milwaukee, WI*

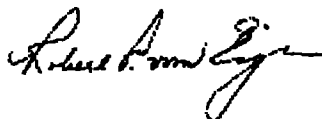
Dear Secretary Quinlan:

The Redevelopment Authority of the City of Milwaukee ("RACM") filed on September 18, 2008 a Petition to Revoke the Notice Exemption obtained by the Milwaukee Industrial Trade Center ("MITC"). Subsequent to filing responsive pleadings, the parties jointly requested that the proceedings be suspended pending on-going negotiations to attempt to settle the dispute. By order served on December 17, 2008, the Board instituted a proceeding under 49 U.S.C. 10502(d) to consider RACM's Petition, but granted the parties' request and held the proceeding in abeyance to provide the parties time to negotiate a settlement. The Board directed the parties to file a joint report with the Board on the status of negotiations by March 17, 2009.

The parties have engaged in extensive negotiations subsequent to the Board's December 17 order, including the exchange of numerous proposals and counter-proposals. Unfortunately, these discussions have not resulted in an agreement to date. RACM believes that the process has continued for more than a sufficient time to resolve this dispute.

As counsel to RACM, I have spoken with MITC counsel, but we could not agree on the terms of a joint report to the Board. Therefore, RACM requests that the Board proceed with a ruling on the pleadings pending before it.

Sincerely yours,



Robert P. vom Eigen

cc: Thomas McFarland, Esq.
Joseph H. Dettmar, Acting Director, Office of Proceedings

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TALLAHASSEE
TAMPA
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WASHINGTON, D.C.

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THOMAS F. MCFARLAND, P.C.
208 SOUTH LASALLE STREET - SUITE 1890
CHICAGO, ILLINOIS 60604-1112
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FAX (312) 201-9695
mcfarland@aol.com

THOMAS F. MCFARLAND

March 17, 2009

By e-filing

Anne K. Quinlan, Esq.
Acting Secretary
Surface Transportation Board
395 E Street, S.W., Suite 1149
Washington, DC 20024

Re: Finance Docket No. 35133, *Milwaukee Industrial Trade Center, LLC, d.b.a. Milwaukee Terminal Railway -- Acquisition and Operation Exemption -- Line Owned By Milwaukee Industrial Trade Center, LLC, d.b.a. Milwaukee Terminal Railway*

Dear Ms. Quinlan:

In a decision in the above proceeding served December 17, 2008, the Board held the proceeding in abeyance pending further order of the Board, and directed the parties to submit a joint status report to the Board on or before March 17, 2009.

The Milwaukee Industrial Trade Center, d.b.a. Milwaukee Terminal Railway (MITC), favors continued negotiations for a private resolution of disputed issues. Accordingly, MITC urges that the matter before the Board be continued in abeyance pending additional negotiations.

Unfortunately, however, the Redevelopment Authority of the City of Milwaukee (RACM) has broken off negotiations, and has requested a return of the disputed issues to the Board's active docket.

In those circumstances, the parties have not been able to agree on a joint status report to the Board.

Respectfully submitted,

Tom McFarland

Thomas F. McFarland
Thomas F. McFarland, P.C.
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Chicago, IL 60604-1112
(312) 236-0204
mcfarland@aol.com
Attorney for Milwaukee Industrial Trade Center, d.b.a. Milwaukee Terminal Railway

TMCF:kl/wp8.0/1294-A/efstb4

cc: Robert VomEigen, by e-mail to *rvomeigen@foley.com*